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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/710,238	11/09/2000	Thomas J. Quigley	1075.132000G	4904	
759	90 02/08/2005	EXAMINER			
STERNE, KES	SSLER, GOLDSTEIN	BOAKYE, AL	BOAKYE, ALEXANDER O		
1100 New York	Avenue, N.W.		ADTIBUT	DA DED MUMBED	
Suite 600			ART UNIT	PAPER NUMBER	
Washington, Do	C 20005-3934		2667		

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Application No. Og/710.238 QUIGLEY ET AL.		(X						
Examiner Act Unit ALEXANDER BOAKYE 2667		Application No.	Applicant(s)					
ALEXANDER BOAKYE ALEXANDER BOAKYE ALEXANDER BOAKYE ALEXANDER BOAKYE ALEXANDER BOAKYE ASHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be revisible under the provision of 13 CPR 1136(b), in no event, however, may a raphy be timely filled Extensions of time may be revisible under the provision of 13 CPR 1136(b), in no event, however, may a raphy be timely filled Extensions of the raphy specified above is test than thely (30) days, anephy whith the statutory minimum of theiry, (30) days will be considered finely. If No period for reply specified above, he maximum statutory period will papply and will assor its (8) (MONTRS from the mailing date of this communication of the reply within the statutory their will happy and will assor its (8) (MONTRS from the mailing date of this communication, even if through flexity, any vector any extended patent term adjustment. Set 37 CPR 1704(b). Status 1) □ Responsive to communication(s) filled on 12 November 2004. 2a) □ This action is FINAL. 2b) □ This action is FINAL. 2claim(s) 1-24 is/are pending in the application. 4) □ Claim(s) 1-24 is/are pending in the application. 4) □ Claim(s) 1-24 is/are rejected. 6) □ Claim(s) 1-24 is/are rejected. 6) □ Claim(s) 1-24 is/are rejected. 7) □ Claim(s) 1-24 is/are rejected. 7) □ Claim(s) 1-24 is/are rejected. 4) □ The application is objected to by the Examiner. 4) □ The drawing(s) filed on 1 is/are: a) □ accepted or b) □ objected to by the Examiner. Application Papers 9) □ The specification is objected to be the examiner. 10 □ The drawing(s) species of the priority documents have been received in Application No. 2 □ Certified copies of the priority documents have been received in Application No. 3 □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT		09/710,238	QUIGLEY ET AL.					
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be waited burden to provide or 13 (2014). In or ovent, however, may a reply be timely filed after \$3X (8) MONTH'S from the mailing date of this communication of \$37 CR 1.13(6). In no ovent, however, may a reply be timely filed after \$3X (8) MONTH'S from the mailing date of this communication of the provided of the communication of the provided by the Office after than three mailing date of this communication, even if timely filed, may reduce any searce platent term adjustment. See 37 CFR 1.794(b). Status 1) □ Responsive to communication(s) filed on 12 November 2004. 2a) □ This action is FINAL. 2b) □ This action is replication is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) □ is/are pending in the application. 4a) □ Claim(s) □ is/are allowed. 6) □ Claim(s) □ is/are allowed. 6) □ Claim(s) □ is/are allowed. 6) □ Claim(s) □ is/are allowed. 7) □ Claim(s) □ is/are objected to. 8) □ The specification is objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oration declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b) □ Some • □ □ None of: 1. □ Certified copies of the priority documents have b	Office Action Summary	Examiner	Art Unit					
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the growitions of 3f CFR 1.18(a), in no event, however, may a reply be timely filed. Extensions of time may be available under the growitions of 3f CFR 1.18(b), in no event, however, may a reply be timely filed. Extensions of time may be available under the growitions of 3f CFR 1.18(a), in no event, however, may a reply be timely filed. Extensions of the may be available under the growitions of 3f CFR 1.18(a) and 1.18		ALEXANDER BOAKYE	2667					
THE MAILING DATE OF THIS COMMUNICATION. Extensions of the may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (8) MONTHS from the making date of this communication. If the protoco for reply specified done is lase than timy (30) days, a reply within the statutory prisimum of thisly (30) days with the considered timely. Failure to reply within the set or extended period for reply wills, the specification to become ABANCONED: (35 U.S. C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any examed patent term adjustment. Set 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 12 November 2004. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-24 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) 1-24 is/are rejected. 7) Claim(s) is/are allowed. 6) Claim(s) 1-24 is/are rejected to 200 claim(s) is/are objected to 300 claim(s) is/are objected to 500 claim(s) is/are objecte		ears on the cover sheet with the c	orrespondence address					
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2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 4) Interview Summary (PTO-413)

6) Other: ____.

Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

Application/Control Number: 09/710,238

Art Unit: 2667

1. **Double Patenting**

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ... (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See Miller v. Eagle Mfg. Co., 151 U.S. 186 (1894); In re Ockert, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

Claims 1-24 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 2-25 of copending Application No. 09/430,821. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (571) 272-3183. The examiner can normally be reached on M-F from 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (571) 272-3179. The fax number is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-4750.

Alexander Boakye

Patent Examiner

AB 1/31/05

SUPERVISORY PATENT EXAMINE:
TECHNOLOGY CENTER 2807 2/4/05

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